

STATE OF MICHIGAN
COURT OF APPEALS

ANTHONY WAYNE MILLER,

Plaintiff-Appellee,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellant.

UNPUBLISHED

January 11, 2002

No. 222439

Ingham Circuit Court

LC No. 98-087928

Before: K. F. Kelly, P. J., and White and Talbot, JJ.

WHITE, J. (*concurring*).

On the record before us, I agree that the circuit court erred in denying summary disposition. Defendant submitted a job description setting forth the duties of the corrections officer E-9 position. It also submitted the affidavit of Grant Larsen, the Personnel Director at the Oaks Correctional Facility. These submissions stated that the position required that the officer perform, on a regular basis, a broad range of activities, including activities inconsistent with plaintiff's sedentary restriction. These documents also established that the light-duty assignments identified by plaintiff were not separate positions, but, rather, were regular corrections officer assignments that were identified as being less physically demanding than other assignments, and that these assignments were made available to injured employees on a temporary basis. Plaintiff submitted no evidence tending to show that the light-duty assignments identified by him were, in fact, treated as separate positions, that corrections officers in his classification were not regularly and routinely required to perform a broad range of non-sedentary functions, or that corrections officers were assigned on a long-term or permanent basis to any of the positions he could perform. Nor did plaintiff provide evidence that the classification description or requirements were unreasonable or contrived. Under these circumstances, I agree that defendant was entitled to summary disposition.

/s/ Helene N. White